

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

SHARLA K. MCKINNEY,

Plaintiff,

vs.

KILOLO KIJAKAZI,

Acting Commissioner of Social Security,

Defendant.

Case No. 19-00503-CV-W-WBG

ORDER

Pending is Plaintiff's Motion for Attorney Fees pursuant to 42 U.S.C. § 406(b). Doc. 27. Counsel seeks fees in the amount of \$12,793.50 for work performed before the Court. *See id.* In support, Plaintiff attaches, *inter alia*, two documents from the Social Security Administration ("SSA"): (1) a "Notice of Award" dated August 28, 2021 (Doc. 27-2), and (2) an "Important Information" letter dated April 22, 2023 (Doc. 27-3).

According to the Notice of Award, Plaintiff's "past-due benefits from March 2017 through May 2021 are \$55,893.00." Doc. 27-2 at 3. From this amount, the SSA states it "withheld \$13,973.25," which constitutes "25 percent of past due benefits in order to pay the approved representative's fee." *Id.*; *see also* Doc. 27 at 2 ("[A]nd attorney's fees in the amount of \$13,973.25 have been withheld from the retroactive benefits."). The Important Information letter, however, states the SSA is "withholding . . . \$12,793.50 which represents the balance of 25 percent of the past-due benefits for" Plaintiff and her family. Doc. 27-3 at 1; *see also* Doc. 27 at 2 ("The defendant agency continues to hold a portion of the retroactive benefits in the amount of \$12,793.25 [sic].").

Plaintiff's counsel requests this Court award him \$12,793.50 in fees. Doc. 27 at 2-3. Defendant does not object to this fees request. *See* Doc. 31. Neither party, however, explains or acknowledges the discrepancy in amounts withheld by the SSA. *See* Docs. 27, 31. Moreover, in the Important Information letter, the SSA claims to have "previously paid [counsel] \$4,662.00 minus user fee under section 206(A)." Doc. 27-3 at 1. But neither party explains the significance, if any, of the \$4,662.00 purportedly paid to counsel and any distinction between said amount and the Court's previous EAJA award. *See* Docs. 27, 31. Furthermore, the SSA also sought to determine "whether [counsel has] petitioned the United States District Court for the Eastern District of California for a fee for your services before the court." Doc. 27-3 at 1. Again, neither party identifies what, if any, proceedings occurred in the Eastern District of California, nor explains any implications related to same. *See* Docs. 27, 31.

The Court requires additional information before it can consider Plaintiff's pending motion for attorney's fees. As such, Plaintiff's counsel is hereby **ORDERED** to file a supplemental brief addressing the aforementioned issues. Said brief shall be filed by close-of-business on Thursday, August 10, 2023. If Defendant wishes to file a response to Plaintiff's supplement brief, the response shall be filed by Monday, August 14, 2023.

IT IS SO ORDERED.

DATE: August 3, 2023

/s/ W. Brian Gaddy
W. BRIAN GADDY
UNITED STATES MAGISTRATE JUDGE